

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

David P. Donovan

Plaintiff,

v.

Beth A. Wilkinson,

Defendant.

Civil Action No. 1:20-cv-1344

**DEFENDANT’S MOTION FOR A HEARING BEFORE JUDGE DAVIS ON THE
SEALING ISSUES THAT HAVE BEEN BRIEFED BY THE PARTIES**

On November 20, 2020, the parties submitted their proposed redactions to the materials that had been filed under provisional seal. *See* Dkt. Nos. 46 and attachments (Defendant’s submission); 54 & 56 and attachments (Plaintiff’s submission). The parties’ proposals are far apart, with Plaintiff proposing to redact the majority of all sealed filings and Defendant proposing more modest redactions. Moreover, the parties disagree on whether the upcoming preliminary injunction hearing scheduled for November 30, 2020, should be sealed.

If a hearing would be helpful to Judge Davis in ruling upon the parties’ proposals, Defendant respectfully requests that such a hearing be held on Tuesday November 24 or Wednesday November 25. In support thereof, Defendant states the following:

1. The parties would benefit from a ruling on proposed redactions because they continue to file other submissions under provisional seal. Once the Court rules on the redaction issues that have been briefed, the parties will have the guidance they need to file redacted versions on the public docket of additional pleadings, such as Defendant’s Opposition to the Preliminary Injunction Motion and Plaintiff’s upcoming Reply thereto.

2. The parties would also benefit in preparing for the November 30 hearing to know whether the hearing will be sealed, and whether they should avoid addressing certain facts or topics if the hearing is not sealed to the public in whole or part.

3. Given the Thanksgiving holiday, if Judge Davis would benefit from a hearing on the redaction and sealing issues that have been briefed, holding such a hearing this Tuesday or Wednesday would allow the Court to rule, and the parties to submit public filings in compliance with that ruling, prior to the November 30 hearing. If the public is granted access to the preliminary injunction hearing in whole or in part, it should also have access to the underlying pleadings (with appropriate redactions) prior to the hearing.

4. While the provisional sealing of case materials constrains Plaintiff and Defendant, there is no such constraint on third parties. Today, the majority owner of the Washington Football Team again commented publicly on the ongoing investigation. *See* “Dan Snyder Acknowledges His NFL Team Had a Workplace Problem, Tries to Move Ahead,” *Wall Street Journal* (November 23, 2020) (available at <https://perma.cc/9LU6-UQUH>). The fact that third parties continue to comment on the investigation underscores the need for this Court to decide the redaction and sealing issues, so the public can understand what Plaintiff is trying to accomplish through this lawsuit and how it relates to the investigation writ-large.

5. Prior to filing this motion, the undersigned conferred with counsel for Plaintiff, who indicated that they do not believe a hearing is necessary and that the Court can decide the redaction and sealing issues on the pleadings. If a hearing would not assist the Court, Defendant agrees that the Court can decide the redaction and sealing issues on the pleadings, and respectfully asks it to do so prior to the November 30, 2020 preliminary injunction hearing.

Dated: November 23, 2020

Respectfully submitted,

Defendant

By: /s/ Thomas G. Connolly

Thomas G. Connolly (VA Bar No. 29164)

Thomas B. Mason (*pro hac vice forthcoming*)

Jared Paul Marx (VA Bar No. 91213)

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Counsel for Defendant

CERTIFICATE OF CONFERENCE

I hereby certify that, pursuant to Local Rule 7, we have conferred with counsel for Plaintiff with regard to this request and to request further discussion of the parties' positions underlying the sealing issues presently before the Court. Counsel for plaintiff has indicated that plaintiff respectfully opposes the request for a hearing on this matter, and believes the Court may proceed on the parties' papers.

Dated: November 23, 2020

/s/ Thomas G. Connolly
Thomas G. Connolly

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true copy of the foregoing to be served by
ECF on the following:

Cathy A. Hinger
Lela M. Ames
WOMBLE BOND DICKINSON LLP
1200 Nineteenth Street, NW, Suite 500
Washington, D.C. 20036

Dated: November 23, 2020

/s/ Thomas G. Connolly
Thomas G. Connolly